

# PART C – Programme specific terms and conditions

## Programme: **Community Heritage and Icons Grants 2015-16**

### 23. Definitions

In this Agreement, except where the contrary intention is expressed, the following definitions are used:

<b>Application Form</b>	the form the Recipient submitted to the Department to apply for funding for the Project, under the Programme.
<b>Asset</b>	any item of tangible property, including software, purchased or leased either wholly or in part with the use of the Funds with a value at the time of acquisition of \$1,000 or more, excluding GST, and having a useful life of three years or more.
<b>Business As Usual Activities</b>	acts or undertakings which the Recipient would undertake or would be required to undertake regardless of the Project.
<b>Depreciation</b>	has the same meaning as it has in Australian Accounting Standard AASB 116 <i>Property, Plant and Equipment</i> .
<b>Dispose</b>	to sell, mortgage or encumber, lease or sublease, license or sublicense, assign or otherwise transfer or give up ownership or the right to occupy or use, or to enter into an agreement to do any of the preceding acts.
<b>Financial Information</b>	for a Recipient that: (a) is not an individual, a completed financial statement (substantially in the form of the template provided by the Department), signed by the Chief Executive Officer and Chief Financial Officer (or their equivalents) of the Recipient, certifying that: (i) the Funds have been used for the purpose for which they were provided; and (ii) all terms and conditions of the Agreement were complied with; or (b) is an individual: (i) a completed financial statement (substantially in the form of the template provided by the Department) signed by the Recipient, certifying that: (A) the Funds have been used for the purpose for which they were provided; and (B) all terms and conditions of the Agreement were complied with; and (ii) a statutory declaration signed by the Recipient stating that: (A) the Funds have been used for the purpose for which they were provided; and (B) all terms and conditions of the Agreement have been complied with.
<b>Programme</b>	Community Heritage and Icons Grants 2015-16.
<b>Programme Outcomes</b>	to deliver outcomes that will: (a) improve community engagement with, and awareness of, places on Australia's National Heritage List and their listed values, their stories, and the benefits of their heritage conservation; and (b) improve conservation, preservation, and interpretation of Australia's National Heritage listed places, and their values (including improved access to these places).
<b>Project Budget</b>	the budget specified in Part A detailing how the Recipient will spend the Funds, and identifying the Recipient's Contributions and Other Contributions (if any) to the Project and the proposed expenditure of such amounts for the purposes of conducting the Project and otherwise performing its obligations under this Agreement as amended from time to time in accordance with clause 23.1(a).
<b>Project Generated Income</b>	any income earned or generated by the Recipient from its use of the Funds, including interest earned from the investment of the Funds, but does not include income earned or generated from the use of the Assets.
<b>Site</b>	the site(s) where the Project will be undertaken and that is identified in the Agreement Details in Part A.

## 24. Project obligations

In consideration of the provision of the Funds, the Recipient must perform the Project in accordance with the provisions of this Agreement.

## 25. Project Budget

- (a) Subject to clause 25(b), the Recipient must perform the Project and only spend the Funds in accordance with the Project Budget, unless approved in writing by the Department.
- (b) Subject to clause 25(c), the Recipient may transfer the Funds between categories of expenditure items within the Project Budget, without the consent of the Department, provided that such transfer does not exceed 10 per cent of the relevant expenditure item specified in the Project Budget for a financial year from which the amount of Funds is being transferred.
- (c) The Recipient must not use the Funds for administrative costs and overheads, except as specified in the Project Budget, and must not transfer Funds from other categories of expenditure items to use for administrative costs and overheads.
- (d) Where required under clause 34.4, the Recipient may use up to \$500 of the Funds towards preparation of a financial statement by a Qualified Accountant. For the avoidance of doubt, costs associated with preparation of a financial statement by a Qualified Accountant are separate to the costs for Project administration and reporting activities at clause 25(c).
- (e) The Department's approval of the Project Budget or any amendment to the Project Budget does not in any way limit the Recipient's obligations under this Agreement.

## 26. Management of Funds

The Recipient must:

- (a) ensure that the Funds are held in an account in the Recipient's name and which the Recipient solely controls, with a deposit-taking institution authorised under the *Banking Act 1959* (Cth) to carry on banking business in Australia; and
- (b) identify the receipt and expenditure of the Funds separately and any interest accrued on the Funds within the Recipient's accounts and records so

that the Funds are identifiable at all times.

## 27. Appointment of subcontractors

- (a) Where the Recipient engages another party to deliver or assist in the delivery of any components of the Project, the Recipient must enter into a contract with that party and that contract must be consistent with the terms of this Agreement.
- (b) The Recipient is responsible for the performance of the Recipient's responsibilities under this Agreement regardless of whether the Recipient has subcontracted any of its obligations.
- (c) The Recipient must not enter into a subcontract under this Agreement with a subcontractor that is not compliant with the *Workplace Gender Equality Act 2012* (Cth).
- (d) If requested, the Recipient must promptly provide to the Department a copy of any contract relating to the Project and / or any Material relating to the engagement of the subcontractor.

## 28. Participation in evaluations, analysis and scientific monitoring

### 28.1 Evaluation and analysis of the Project

The Recipient must participate, as reasonably required by the Department, in studies, evaluations and other activities intended to analyse the success of the Project or Programme in achieving the Programme Outcomes. Such participation may, where required by the Department, include but not be limited to:

- (a) attending relevant conferences and forums in which evaluations and analysis are being undertaken;
- (b) allowing third parties access to the Site to undertake analysis, evaluation and monitoring of the Programme and the Project; and
- (c) making data, records and other information (including reports) available to third parties for the purposes of evaluation and analysis.

## 29. Other contributions

### 29.1 Recipient Contributions and Other Contributions

- (a) It is a condition precedent to the payment of the Funds under this Agreement that:

- (i) the Recipient must provide the Recipient's Contributions;
  - (ii) if requested by the Department, the Recipient must provide the Department with written evidence that the persons specified in the Project Budget will provide the Other Contributions, including the amounts to be provided, the due dates for each of these amounts and the terms and conditions of the provision of the Other Contributions; and
  - (iii) the basis on which the Other Contributions are to be provided is satisfactory to the Department.
- (b) The Recipient must ensure that the terms on which any other funding or contributions are provided to the Recipient for, or in connection with, the Project are not inconsistent with the terms of this Agreement and do not in any way limit or affect the Recipient's ability to comply strictly with its obligations, or the Department's ability to exercise its rights, under this Agreement.
- (c) To enable Project continuity of effort, Recipients should provide Recipient Contributions and Other Contributions in the early stage of the Project.
- (d) The Recipient must promptly notify the Department if the total amount of the Recipient's Contributions or Other Contributions reduces, or if such a reduction is anticipated.
- (e) If:
- (i) the Department receives notice under clause 29.1(c);
  - (ii) the Recipient does not provide the Recipient's Contributions or provide them in time to enable completion of the Project; or
  - (iii) the Recipient is not able to obtain the Other Contributions or obtain them in time to enable completion of the Project,
- then the Department may, in its absolute discretion:
- (iv) suspend payment of the Funds or an instalment of the Funds until the Recipient's Contributions are provided or the Other Contributions are received;

- (v) reduce the amount of the Funds, adopting the formula in clause 29.1(f), where R = the reduced amount; or
- (vi) terminate this Agreement in accordance with clause 19.

- (f) If, on expiry of the Agreement Period or any earlier termination of this Agreement, the Recipient's Contributions and / or the Other Contributions have not been provided in full, the Department may (without limiting its rights) require the Recipient to refund to the Department within 20 Business Days of a written notice from the Department, an amount of Funds calculated in accordance with the following formula (up to an amount that does not exceed the total amount of the Funds):

$$R = OC - AC$$

Where:

- R = The refund amount;
- AC = The total aggregate amount of contributions actually made as Recipient's Contributions and / or Other Contributions for the Project pursuant to this Agreement; and
- OC = The total aggregate amount of Recipient's Contributions and Other Contributions specified in Part A.

- (g) The Department may, in its absolute discretion reduce the amount of the Funds required to be repaid by the Recipient in accordance with clause 29.1(f) to an amount lower than the amount determined by the formula prescribed in clause 29.1(f).

## **29.2 Notification of additional other contributions**

The Recipient must:

- (a) promptly notify the Department in writing of the amount and source of any additional funding or other contributions for the Project (other than Funds provided under this Agreement or contributions already identified in the Project Budget);
- (b) if requested by the Department, promptly provide to the Department

copies of any written arrangements entered into, or proposed to be entered into, in respect of such other funding or contributions; and

- (c) ensure that the terms on which any other funding or contributions are provided to the Recipient for, or in connection with, the Project are not inconsistent with the terms of this Agreement and do not in any way limit or affect the Recipient's ability to comply strictly with its obligations, or the Department's ability to exercise its rights, under this Agreement.

## **30. Assets**

### **30.1 Purchasing of Assets**

- (a) The Recipient must not use the Funds towards the purchase of Assets unless the Asset is identified in the Project Budget or the Recipient has obtained the prior written approval of the Department, which may be subject to any conditions the Department may, in its absolute discretion, impose.
- (b) An item which is not an Asset but is purchased by the Recipient using the Funds must only be purchased if the Recipient can show that the item is to be used in undertaking the Project.

### **30.2 Use of Assets**

The Recipient must not use Assets for any purpose other than the performance of the Project unless it has obtained the prior written approval of the Department, which will not be unreasonably withheld.

### **30.3 Obligations in relation to Assets**

The Recipient must:

- (a) not Dispose of any Asset, or deal with any Asset other than in accordance with this Agreement, without having obtained the prior written approval of the Department, which will not be unreasonably withheld;
- (b) maintain all Assets in good working order;
- (c) insure any Asset for its full replacement value;
- (d) be fully responsible for, and bear all risks arising in relation to, the use or Disposal of any Asset;
- (e) maintain a register of all Assets, recording the date of purchase or lease, the purchase or lease price, Asset description, Asset location, the proportion of the Funds used to create or acquire the Asset, the value of the Asset and (where approved under

clause 30.3(a)) details of Disposal of the Asset, including the sale price; and

- (f) as and when requested, provide copies of the register of Assets to the Department.

## **30.4 Disposal of Assets**

- (a) At any time, the Recipient must obtain the prior written approval from the Department before Disposing of an Asset.
- (b) If, at the time of the Disposal, the Asset has not been fully Depreciated the Recipient must, within 10 Business Days of the Disposal, seek the Department's direction as to whether the Recipient must:
  - (i) pay to the Department, on or before a date to be directed by the Department, an amount equal to the proportion of the value of the Asset following Depreciation that is equivalent to the proportion of the purchase price of the Asset that was funded from the Funds;
  - (ii) pay to the Department, on or before a date to be directed by the Department, the proceeds of the Disposal, less an amount equal to the sum of the proportionate contribution to the purchase price of the Asset that was not funded from the Funds and the Recipient's reasonable costs of Disposal of the Asset; or
  - (iii) use the amount payable to the Department under clause 30.4(b)(i) or (ii) (as the case may be) for a purpose (as directed by the Department), and in accordance with conditions, approved in writing by the Department.
- (c) Within 40 Business Days after the end of the Project Period or the earlier termination of the Agreement, the Recipient must provide to the Department a proposal setting out which one of the three following ways the Recipient would like each Asset to be dealt with:
  - (i) the Recipient will Dispose of the Asset at fair market value and comply with clause 30.4(b);
  - (ii) the Recipient will pay to the Department, on or before a date to be directed by the Department, an amount equal to

the proportion of the value of the Asset following Depreciation that is equivalent to the proportion of the purchase price of the Asset that was funded from the Funds; or

- (iii) the Recipient will continue to use the Asset for purposes and on conditions to be reasonably directed by the Department.
- (d) The Department will consider the proposal submitted by the Recipient under clause 30.4(c) and direct the Recipient as to the way in which the Recipient must deal with each Asset.
- (e) The Recipient must fully implement the Department's directions under clause 30.4(d) to the satisfaction of the Department within 40 Business Days of the date of the direction.

### **30.5 Interest**

- (a) If the Recipient fails to make a payment or use the amount as required by clauses 30.4(b)(i), (ii) or (iii) or clause 30.4(c)(ii) (as the case may be), the Recipient must pay the Department:
  - (i) Interest on the relevant amount from the date it was due, for the period it remains unpaid; and
  - (ii) the relevant amount.
- (b) Interest owed under clause 30.5(a)(i) will be recoverable by the Department as a debt due from the Recipient.

### **31. Project Generated Income**

- (a) Subject to clause 31(b), the Recipient must treat Project Generated Income in accordance with the Department's written direction.
- (b) Unless otherwise directed by the Department in writing, the Recipient must apply any interest earned from the investment of the Funds to Project expenses or costs. The Recipient acknowledges that, the Department may, at its absolute discretion:
  - (i) authorise the use of Project Generated Income to maximise Project Outcomes;
  - (ii) require the return of the interest amount to the Department; or
  - (iii) offset future payment(s) of Funds against the interest amount.

### **32. Announcement documentation**

- (a) The Recipient must submit any Material containing the required acknowledgment specified in clause 33 to the Department 10 Business Days prior to publication or announcement of the event.
- (b) If the Department requires amendments to a proposed form of words of a publication, announcement or any Material, the Recipient must make the required amendment before allowing the words to be published or announced.
- (c) Notwithstanding the Department's review or proposal of a revised form of words in accordance with this clause, the Recipient will at all times remain responsible for the content and accuracy of published or announced Material.
- (d) The Department reserves the right to require any Material published or announced in breach of this clause 32 be fully withdrawn or retracted at the Recipient's cost.
- (e) Where Funds are granted to the Recipient to produce any publication, the Recipient must provide the Department with one hardcopy and one electronic copy of the publication unless the Department advises otherwise.

### **33. Acknowledgement**

The Recipient must acknowledge the provision of the Funds by the Department:

- (a) at a minimum, in accordance with the Australian Government Recognition Guidelines available at <http://www.heritagegrants.gov.au/resources/publications/c4oc/recognition-guidelines.html>; or
- (b) in any other form required by the Department.

### **34. Reports**

#### **34.1 Required reports**

The Recipient must provide the following reports substantially in the form of any relevant template(s) provided by the Department:

- (a) reporting of Indigenous participation and employment, as specified in clause 34.2;
- (b) a performance final report, as specified in clause 34.3; and

- (c) financial reports, as specified in clause 34.4.

### **34.2 Reporting of Indigenous participation and employment**

Where relevant, the Recipient must report on the number of Indigenous people either directly employed or subcontracted, and / or engaged as volunteers in the Project, in the performance final report.

### **34.3 Performance final report**

- (a) The Recipient must submit a performance final report (in the form of a template provided by the Department) to the satisfaction of the Department.
- (b) The performance final report must include reporting of Indigenous participation and employment as required by clause 34.2.

### **34.4 Financial reports**

- (a) Unless otherwise approved by the Department in writing the Recipient must provide to the Department a financial report (in the form of the template provided by the Department), including Financial Information, within the relevant timeframe specified in the Milestone Schedule.
- (b) The Department reserves the right to request information on the Project Budget (including income and expenditure) at any time and the Recipient must promptly provide that information.

### **34.5 Early completion of Project**

In the event of early Project completion by the Recipient, the Department will accept a performance final report and financial report prior to expiration of the Project Period.